

Message Text

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45

ACTION L-02

INFO OCT-01 NEA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

EB-04 FMC-01 INR-05 NSAE-00 RSC-01 CG-00 COA-01

DLOS-03 SWF-01 FEAE-00 INT-05 OES-03 TRSE-00 PA-01

USIA-06 PRS-01 SP-02 SCS-02 JUSE-00 SCA-01 SS-15

NSC-05 /066 W

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R 231135Z OCT 74

FM AMCONSUL BOMBAY

TO SECSTATE WASHDC 4833

INFO AMCONSUL CALCUTTA

AMCONSUL MADRAS

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E.O. 11652: N/A

TAGS: OGEN, PLOS, IN

SUBJ: TRANS HURON

REF: BOMBAY 2498

1. GOI DIRECTOR GENERAL OF SHIPPING S.V. BHAVE AND NAUTICAL ADVISOR P.S. VANCHISWAR REPEATED TO US OCTOBER 23 THAT GOVERNMENT OF INDIA IS MOST ANXIOUS TO PROCEED WITH UNLOADING OF OIL FROM TRANS HURON AS SOON AS POSSIBLE IN ORDER REDUCE RISK FURTHER OIL SPILLAGE. AREA AROUND KILTAN ISLAND CAN HAVE BAD WEATHER IN NOVEMBER AND DECEMBER. THEY WOULD PREFER THAT SMIT TAK UNDERTAKE UNLOADING, SAYING SMIT TAK'S PROCEDURES AND EQUIPMENT ARE SUPERIOR TO THOSE OF GOI, BUT IN THE ABSENCE OF ANY INDICATION FROM SMIT TAK IT IS READY TO START WORK WITHIN THE VERY NEAR FUTURE, INDIAN NAVY WILL START UNLOADING OIL "WITHIN THE NEXT TWO TO THREE DAYS". BHAVE SAID INDIAN NAVY IS QUITE PREPARED TO GIVE WAY TO SMIT TAK WHEN COMPANY ARRIVES.

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2. WE INFORMED BHAVE VANCHISWAR WE WOULD ASK THE DEPARTMENT

TO CONVEY TO US ANY INFORMATION CONCERNING SMIT TAK'S PLANS AVAILABLE TO IT. WE IN TURN WILL CONVEY THAT INFORMATION TO THEM. ADDITIONALLY, IN AN EFFORT TO BE HELPFUL, WE SUGGESTED THAT WE WOULD TRY HELP INDIAN NAVY LOCATE ANY EQUIPMENT IT MIGHT NEED FOR THE UNLOADING BY APPROACHING COMPANY FOR EXAMPLE. BHAVE AND VANCHISWAR APPRECIATIVE AND INDICATED INDIANS NOT AS WELL EQUIPPED IN THIS REGARD AS THEY SHOULD BE FOR THE UNLOADING.

3. BHAVE/VANCHISWAR STATED THEY HAD TOLD PARSONS/ANDERSON THEY WERE QUITE WILLING FOR HUDSON WATERWAYS TO HAVE A MAN PRESENT IN COCHIN OR ON KILTAN TO OBSERVE THE UNLOADING AND HELP WHERE HE CAN. THE MAN COULD COME OUT IN ADVANCE OF THE UNLOADING OR WAIT UNTIL WORK HAS BEGUN, BUT BHAVE AND VANCHISWAR THOUGHT IT WOULD BE HELPFUL TO HAVE SUCH A MAN PRESENT. THIS WOULD FACILITATE SMIT TAK TAKEOVER OF UNLOADING OPERATIONS WHEN THEY IN POSITION DO SO.

4. BHAVE AND VANCHISWAR STATED THEY FULLY RECONIZE THAT THE TRANS HURON AND ITS CARGO ARE OWNED BY THE UNITED STATES GOVERNMENT. HOWEVER, THERE IS STILL SOME QUESTION IN THEIR MINDS OVER THE "OWNER OF THE WRECK" WITHIN THE TERMS OF SECTION 399 (1) OF THE INDIAN MERCHANT SHIPPING ACT OF 1958 WHICH READS AS FOLLOWS: "THE OWNER OF ANY WRECK IN THE POSSESSION OF THE RECEIVER UPON ESTABLISHING HIS CLAIM TO THE SAME TO THE SATISFACTION OF THE RECEIVER WITHIN ONE YEAR FROM THE TIME AT WHICH THE WRECK CAME INTO THE POSSESSION OF THE RECEIVER SHALL, UPON PAYING THE SALVAGE AND OTHER CHARGES, BE ENTITLED TO HAVE THE WRECK OR THE PROCEEDS THEREOF DELIVERED TO HIM."

5. I INTEND TO GIVE THEM A LETTER, SIGNED BY ME, BASED ON STATE 225193 THAT THE TRANSHURON IS OWNED BY THE USG, CHARTERED TO POLKE TANKERS, WHICH HAS IN TURN CHARTERED THE VESSEL TO HUDSON WATERWAYS, ON THE BASIS OF WHICH THEY CAN PROCEED WITH UNLOADING THE OIL. HOWEVER, FOR FINAL DISPOSITION OF THE CASE, THEY MUST HAVE SOME INDICATION, EITHER FROM HUDSON WATERWAYS OR FROM US, THAT HUDSON WATERWAYS IS RESPONSIBLE IN THE FINAL ANALYSIS FOR THE DAMAGES ARISING OUT OF THEIR OPERATION OF THE TRANS HURON. GOI HAS ALREADY FILED CHARGES AGAINST THE MASTER AND IN CASE OF COMMERCIAL VESSEL WOULD HAVE FOLLOWED UP WITH CHARGES AGAINST THE COMPANY. THEY HAVE HELD OFF, THEY SAID, BECAUSE THEY WERE NOT QUITE SURE WHETHER FILE AGAINST COMPANY OR USG. BUT THEY SAY IT LIMITED OFFICIAL USE

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IS ESSENTIAL THEY HAVE ASSURANCES AS TO WHO IS RESPONSIBLE FOR THE CHARGES WHICH WILL BE INCURRED, HUDSON WATERWAYS OR THE USG. BHAVE AND VANCHISWAR ASSUME USG WILL LOOK TO HUDSON WATERWAYS TO ACCEPT THESE CHARGES BUT THEY NEED TO BE ASSURED ON THIS POINT SINCE THIS IS BOUND TO BE RAISED BY THE GOI LEGAL DEPARTMENT. IN ANY CASE THEY BELIEVE MOST DAMAGES WILL PAID BY THE P & I CLUB AND/OR TOVALOP.

6. BOTH BHAVE AND VANCHISWAR

GAVE EVERY INDICATION OF WANTING
TO BE HELPFUL. THEY APOLOGOZED FOR RAISING THIS "LEGAL POINT" BUT

ANTICIPATE THAT THEIR OWN LEGAL PEOPLE WILL BRING IT UP. WE
WOULD VERY MUCH APPRECIATE A REPLY WE CAN PASS ALONG TO THEM.
IN THE MEANTIME, WE AGREED TO KEEP INTOUCH ON ANY OTHER QUESTIONS
CONCENING THE TRANS HURON WHICH MIGHT ARISE.
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Disposition Date: 28 MAY 2004
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